

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARTIN SCHNEIDER, et al.,

Plaintiffs,

v.

CHIPOTLE MEXICAN GRILL, INC.,

Defendant.

Case No. 16-cv-02200-HSG

**ORDER DIRECTING
SUPPLEMENTAL BRIEFING**

Re: Dkt. No. 205

Pending before the Court is Plaintiffs' unopposed motion for preliminary approval of class action settlement. Dkt. No. 205. The Court directs Plaintiffs to submit supplemental briefing by January 20, 2020 on two issues described below.


First, Plaintiffs assert that they are seeking certification of the settlement class under Rule 23(b)(2) and Rule 23(b)(c). Dkt. No. 205 at 8. However, the Settlement Agreement only contemplates certification under Rule 23(b)(3). Dkt. No. 205-2 ("SA") § III.A. Nor does the Settlement Agreement provide for injunctive or declaratory relief. *See* Fed. R. Civ. P. 23(b)(2). Accordingly, the Court directs Plaintiffs to clarify the basis under which they are seeking certification.

Second, in light of the Ninth Circuit's recent decision in *Roes, 1-2 v. SFBSC Mgmt., LLC*, 944 F.3d 1035 (9th Cir. 2019), Plaintiffs are directed to provide more detail regarding the notice plan, specifically the digital media campaign. For example, while the Settlement Administrator states that the "internet banner notice ... will be implemented using a 60-day desktop and mobile campaign," there is no specificity as to *where* the banner will be placed. *See* Dkt. No. 205-12 at ¶¶ 18–21. Plaintiffs should explain what websites, social media platforms, or relevant online messaging boards will be used to disseminate information about the settlement, and how those

platforms will be “‘reasonably calculated, under all the circumstances,’ to apprise all class members of the proposed settlement.” *See Roes*, 944 F.3d at 1047 (citation omitted). In other words, Plaintiffs should provide sufficient detail about the proposed notice process to allow the Court to analyze whether the plan satisfies the concerns articulated in *in Roes*. *See Roes*, 944 F.3d at 1045–48.

IT IS SO ORDERED.

Dated: 1/13/2020


HAYWOOD S. GILLIAM, JR.
United States District Judge